

**FILED**  
**BOARD OF**  
**REAL ESTATE APPRAISERS**

*James S. Hsu*  
**DR. JAMES S. HSU**  
**Executive Director** 6/26/07

STATE OF NEW JERSEY  
DEPARTMENT OF LAW & PUBLIC SAFETY  
DIVISION OF CONSUMER AFFAIRS  
BOARD OF REAL ESTATE APPRAISERS

COPY

IN THE MATTER OF THE  
SUSPENSION OR REVOCATION OF  
THE LICENSE OR CERTIFICATION  
OF

Administrative Action

JOHN M. MEHR,  
RC00153400

FINAL ORDER  
OF DISCIPLINE

TO PRACTICE AS A REAL ESTATE  
APPRAISER IN THE STATE  
OF NEW JERSEY

CERTIFIED TRUE COPY

THIS MATTER was opened to the New Jersey State Board of Real Estate Appraisers ("Board") upon receipt of information which the Board has reviewed and on which the following findings of fact and conclusions of law are made:

FINDINGS OF FACT

1. Respondent is a real estate appraiser in the State of New Jersey, and has been a licensee at all times relevant hereto.
2. The Board conducted a continuing education audit in 2006, asking a random sampling of its licensees for documentation of continuing education completed during the 2004-2005 licensing period.
3. Respondent submitted documentation in response to this audit, which was received on April 4, 2006.

4. Respondent did forward proof of successful completion of the 7-hour USPAP course.

5. Respondent submitted documentation of having completed a total of seven (7) credit hours of continuing education prior to December 31, 2005.

6. Respondent certified upon respondent's renewal application for the 2006-2007 licensure renewal period that respondent had completed the continuing education requirement during the previous biennial licensure renewal period.

7. Respondent certified upon respondent's renewal application for the 2006-2007 licensure renewal period that respondent had completed a USPAP course.

8. Respondent is required pursuant to N.J.A.C. 13:40A-5.3, -5.4 to have completed the equivalent of fourteen (14) classroom hours of instruction for each year during the period preceding renewal. The continuing education completed must include either a seven (7) or fifteen (15) hour USPAP course.

#### CONCLUSIONS OF LAW

1. Respondent's failure to successfully complete continuing education requirements for licensure during the 2004-2005 biennial renewal period constitutes a violation of N.J.A.C. 13:40A-5.3, -5.4, subjecting respondent to sanctions pursuant to N.J.S.A. 45:1-21(e) and (h).

2. Respondent's certification upon renewal for the January

1, 2006-December 31, 2007 renewal cycle that respondent had satisfied the continuing education requirement constitutes a violation of N.J.S.A. 45:1-21(b).

#### DISCUSSION ON FINALIZATION

Based on the foregoing findings and conclusions, a Provisional Order of Discipline ("POD") was entered by this Board on March 21, 2007 and served upon Respondent. The POD was subject to finalization by the Board at 5:00 p.m. on the 30th business day following entry unless Respondent requested a modification or dismissal of the stated Findings of Fact or Conclusions of Law by submitting a written request for modification or dismissal setting forth in writing any and all reasons why said findings and conclusions should be modified or dismissed and submitting any and all documents or other written evidence supporting Respondent's request for consideration and reasons therefor.

Respondent submitted responses dated April 5, 2007, April 24, 2007 and May 4, 2007 requesting a modification to the Findings of Fact, Conclusions of Law and proposed penalty and seeking a hearing. The Attorney General filed responses dated April 20, 2007 and April 27, 2007. Respondent argues that the findings of fact are unproven, although he admits that he did not timely fulfill the continuing education requirement and characterizes it as a "technical violation." However, the Board considered that the Respondent belatedly fulfilled the continuing education requirement

and, therefore, has mitigated the proposed penalty of the POD and is not imposing an active suspension.

Additionally, Respondent appears to argue that he did not complete the on-line biennial renewal application, but does not go so far as to assert the manner in which he renewed his license. However, the Board's records indicate that Respondent's license was renewed on-line and that a written biennial renewal application was not received. Further, the Attorney General has provided certifications from Charles Kirk, Assistant Executive Director, and Maria T. Lapolla, Information Technology Manager, that Respondent renewed on-line and answered "yes" to the questions concerning whether Respondent had fulfilled the continuing education requirement, and that by pressing the "Submit Answers" key, he certified that information on the biennial renewal form were true and complete to the best of his knowledge. Further, Respondent acknowledged that if any of the information was wilfully false, then he would be subject to punishment and/or disciplinary sanction, including license suspension/revocation or the imposition of civil penalties, as may be provided by law. Accordingly, the Board finds that the Respondent took responsibility for all answers provided in the on-line renewal form. Further, the Board has the right to rely upon Respondent's answers and representations regardless of whether they were transmitted via electronic means or in a written format. But notably, the Respondent falls short of

contesting the fact that he renewed on-line; rather, he is merely contesting the proofs which the State relies upon regarding his renewal. Accordingly, the Board accepts these certifications and finds that Respondent misrepresented in his biennial renewal application dated November 20, 2005 that he timely completed the continuing education requirement.

Further, Respondent argues that failure to fulfill the continuing education requirements does not "touch directly upon the performance of his duties as a real estate appraiser" and, therefore, does not constitute professional misconduct within the meaning of N.J.S.A. 45:1-21(b). The Board disagrees and finds that continuing education plays an essential and important role in the on-going proficiency of licensees and, therefore, directly relates to, and touches upon, the practice of this profession, as well as the conduct and performance of the licensee.

Finally, the Respondent also argues that the Board should take into consideration the extenuating circumstances in August 2005 to excuse or mitigate Respondent's noncompliance with what he terms a "technical" requirement of the continuing education obligation. The Board took into consideration that Respondent had two (2) years to fulfill this mandate and indeed completed some of the hours in November 2005. Further, the Board is of the opinion that Respondent could have requested an extension, but failed to do so. Therefore, the Board was unpersuaded by Respondent's argument.

The submissions of Respondent and Attorney General were reviewed by the Board on May 8, 2007 and the Board determined that further proceedings were unnecessary and that no material discrepancies have been raised requiring an evidentiary hearing. Respondent concedes that he did not timely fulfill the continuing education requirement and has provided nothing but a bald assertion to refute his on-line certification as to the context of his biennial renewal.

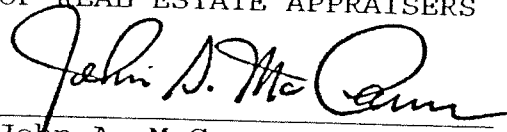
Therefore, the Board has determined that Respondent failed to timely meet the continuing education requirements and, further, misrepresented that he had met those requirements at the time of completing his on-line biennial renewal application. The POD does not allege, nor does the Board find that, Respondent made misrepresentations in his response to the audit. However, the Board has modified the penalty in response to the mitigating information so as not to impose an active suspension because Respondent has demonstrated belated compliance with the continuing education requirements.

ACCORDINGLY, IT IS on this 26th day of June, 2007,  
ORDERED that:

1. A public reprimand is hereby imposed upon respondent for the violation of N.J.S.A. 45:1-21(b), (e) and (h).
2. A civil penalty in the amount of \$1,750.00 is hereby imposed upon respondent. Payment shall be made by certified check

or money order payable to the "State of New Jersey" and forwarded to James S. Hsu, Executive Director, Board of Real Estate Appraisers, 124 Halsey Street, P.O. Box 45032, Newark, New Jersey 07101.

NEW JERSEY STATE BOARD  
OF REAL ESTATE APPRAISERS

  
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John A. McCann  
President